

IDAHO STATE TAX COMMISSION

COMMISSIONERS' OPEN MEETING MINUTES OF MEETING APRIL 13, 2016

In attendance: Commissioners Ken A. Roberts, Tom Katsilometes, Richard W. Jackson, and Elliot S. Werk; Michael Chakarun, Valerie Dilley, Renee Eymann, Steve Fiscus, Scott Grothe, Roxanne Lopez, Robin O'Neill, Mark Poppler, Chuck Pond, Phil Skinner, Mike Teller, Randy Tilley, Doreen Warren; Cynthia Adrian, Rick Anderson, Robert Howe, Glenda Smith, Don Williams; Mat Cundiff, George Brown, Nathan Nielson, Chris Schrette, Erick Shaner, David Young; Kathy Beard, Josh Miller, Patricia Norris, Kathleen Osborn, Lisa Palmer, Lisa Schroeder, Evelyn Smith, Bryan Smith, Mark Stones, Pam Waters; Mary Almadova, Courtney Baldwin, Dawn Baltadonis, Carolyn Bell, Ryan Beus, Teresa Boardman, Rose Calico, Karen Eavenson, Doug Econie, Curt Ford, Terry Gober, Auston Holmes, Glenyce Hug, Brenda Kolding, Janice Lambertus, Celinda Manweller, Sandi Mickle, Jena Noeldner, Maria Nunez, Berkley Olmstead, James Pendergrass, Jessie Pilot, Gloria Ritchie, Clorice Terrell, Kim Wind, Nicki Witt.

Guest: Kay Christensen.

Public Session.

Commissioner Elliot S. Werk convened the open meeting and welcomed all those in attendance.

Presentation of Certificates of Service.

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving a Certificate of Service. Roxanne stated how much their combined total of 150 years of state service was appreciated.

The Certificate of Service recipients in attendance were: Evelyn Smith, Financial Technician (Audit Division), for 5 years of state service; Joshua Miller, Financial Specialist (Management Services), and Lisa Palmer, Tax Policy Specialist (Tax Policy), and Lisa Schroeder, Program Supervisor (Revenue Operations Division), and Pam Waters, Program Specialist (Property Tax Division), for 10 years of state service; Kathy Beard, Technical Records Specialist 1 (Revenue Operations Division), and Robert Howe, Tax Bureau Chief (Collection Division), and Bryan Smith, Tax Field Office Manager (Collection Division), for 15 years of state service; Patricia Norris, Office Specialist 1 (Audit Division), and Kathleen Osborn, Senior Human Resource Specialist (Human Resources), for 25 years of state service and a thank-you letter from the Governor.

The Certificate of Service recipients not in attendance were: Denise Reese, Tax Auditor 2 (Audit Division), and Amanda Williams, Technical Records Specialist 1 (Collection Division), for 5 years of state service. Those absent will receive their certificates at a later time.

The commissioners expressed their congratulations to all the recipients and said how the recipients' combined total of 150 years of dedicated state service was commendable and how the everyday work they do is valued and appreciated.

Business Requiring Vote of the Commission.

Minutes: Open Meetings – March 1, 2016.

Commissioner Richard W. Jackson moved that the minutes of the open meetings held on March 1, 2016, be approved. Commissioner Tom Katsilometes seconded. There were no comments or amendments. All voted in the affirmative and the minutes of the open meetings held on March 1, 2016, were approved.

Administrative Policy Memorandum No. 16-03 – Violence in the Workplace.

Roxanne Lopez, Human Resources Officer, presented the Administrative Memorandum No. 16-03 – Violence in the Workplace Policy. Roxanne noted this revised policy memorandum replaces the agency's previous Administrative Policy Memorandum No. 12-03, dated May 9, 2012. This policy will expire on April 13, 2020. The Idaho State Tax Commission (Tax Commission) is committed to providing a workplace that is safe, secure and free of harassment, threats, intimidation and violence for its employees.

Commissioner Katsilometes moved that Administrative Memorandum No. 16-03 – Violence in the Workplace Policy be adopted, and Commissioner Jackson seconded. There were no comments or questions. All voted in the affirmative and the Administrative Memorandum No. 16-03 – Violence in the Workplace Policy was adopted.

Administrative Policy Memorandum No. 16-04 – Interns and Volunteers.

Roxanne Lopez, Human Resources Officer, presented the Administrative Policy Memorandum No. 16-04 – Interns and Volunteers Policy. Roxanne noted this revised policy memorandum replaces the agency's previous Interns and Volunteers policy, Administrative Policy Memorandum No. 12-01, dated May 9, 2012. This policy will expire on April 13, 2020. The purpose of this policy is to establish specific requirements and procedures for interns (paid and unpaid) and volunteers to provide services at the Tax Commission.

Commissioner Katsilometes moved that Administrative Policy Memorandum No. 16-04 – Interns and Volunteers Policy be adopted, and Commissioner Werk seconded. There were no comments or questions. All voted in the affirmative and the Administrative Policy Memorandum No. 16-04 – Interns and Volunteers Policy was adopted.

Administrative Policy Memorandum No. 16-05 – Use of Social Media.

Roxanne Lopez, Human Resources Officer, presented the Administrative Policy Memorandum No. 16-05 – Use of Social Media Policy. Roxanne noted this revised policy memorandum replaces the agency's previous policy, Administrative Policy Memorandum No. 12-02, dated May 9, 2012. This policy will expire on April 13, 2020. The purpose of this policy is to establish standards for Tax Commission employees' to use social media sites as a work tool. An amendment was necessary to correct in the date of adoption written on the policy.

Commissioner Jackson moved that Administrative Policy Memorandum No. 16-05 – Use of Social Media Policy, with the amendment be adopted, and Commissioner Katsilometes seconded. There were no comments or questions. All voted in the affirmative and the amended Administrative Policy Memorandum No. 16-05 – Use of Social Media Policy was adopted.

Administrative Policy Memorandum No. 16-06 – Background Investigation for New Employees.

Roxanne Lopez, Human Resources Officer, presented the Administrative Policy Memorandum No. 16-06 – Background Investigation for New Employees Policy. Roxanne noted

this revised policy memorandum replaces the agency's previous policy, Administrative Policy Memorandum No. 12-04, dated May 9, 2012. This policy will expire on April 13, 2020.

Roxanne noted that the intent of the Tax Commission is to promote a safe and secure work environment for its employees and customers, safeguard the confidentiality of taxpayer and employee information, and to protect the integrity of the agency and the State of Idaho by ensuring individuals who perform work for the Tax Commission meet its background standards. This policy will be administered in accordance with any applicable equal employment opportunity laws.

Commissioner Katsilometes moved that Administrative Policy Memorandum No. 16-06 – Background Investigation for New Employees Policy be adopted, and Commissioner Jackson seconded. There were no comments or questions. All voted in the affirmative and the Administrative Policy Memorandum No. 16-06 – Background Investigation for New Employees Policy was adopted.

There was no more business requiring a vote of the Commission.

Administrative Reports.

Audit Division, Randy Tilley.

Randy Tilley, Audit Division Administrator, reported that as of Friday April 8, the agency has confirmed 281 fraudulent returns (55 fraud and 226 ID theft) and stopped \$501,463 in fraudulent refunds (\$36,739 fraud and \$464,724 ID theft). There have been 17,887 letters sent out to taxpayers asking that they take a quiz or provide documentation to verify their identity. Well over 80 percent of those taking the identity verification quiz online have passed thus eliminating the need for subsequent document reviews and speeding up processing of their return. The Tax Discovery Bureau has reviewed 4,007 packets of documents from taxpayers verifying their identity. Taxpayers are provided 90 days to respond to the request for identity verification documents and that time frame for the first batch of letters sent in late January will soon expire. The Taxpayer Discovery Bureau (TDB) staff must then use other information to determine if the return is valid or not.

Commissioner Werk clarified that if there is a lack of response to the letters after the 90-day deadline, the returns are not accepted as fraud, but TDB is going the extra mile to use other available information to identify and verify the taxpayers' identity. Randy and Doreen Warren, Revenue Operations Division Administrator, will work with Communications to encourage the taxpayers to take the quiz or send in packets. Discussion followed. Randy added that they are prepared for the influx of returns in the next two to three weeks.

Management Services, Mark Poppler.

Mark Poppler, Financial Officer, reported that in January he reported that the refund fund was very strong this year, and that we had very little to worry about. In fact, refunds have flooded out the door, particularly in March, setting a new one-month record of almost \$109 million. That exceeded last March by \$28 million, and the previous record by \$16 million. Therefore, the agency had to take a few internal steps to slow the process down slightly to make sure the refund fund does not run out of funds this month before the large revenue days begin next week. The refund fund is slightly over \$12 million this morning, and will dip below \$10 million tonight. Even so, Mark believes the fund is out of immediate danger. The agency will be proposing some legislative ideas to give us greater flexibility in the future, since this problem has occurred in the majority of years.

Management Services received the approved claim for reimbursement under the STARS program (Sales Tax Anticipation Revenue), also known as the Pilot Demonstration Project Fund, from the Village at Meridian project early in 2014. This program was passed in the 2008 legislature

for the purpose of establishing a new method for financing public transportation infrastructure. Basically, a developer who spends the necessary minimum (currently \$4,000,000) on a qualifying retail complex can register with us, and have 60 percent of the sales tax payments from qualified retailers in the complex go into the Pilot Demonstration Project Fund. If the developer is then able to obtain approval from the Idaho Transportation Department to build an interchange or other public transportation improvement with a minimum value of \$6,000,000, the developer can file claims for cost reimbursement from the Pilot Demonstration Project Fund. The sales tax diverted is capped at a maximum of \$35,000,000 per project. Two developers have met these requirements and have submitted claims for reimbursement. While there are only two qualified retailers in the development in north Idaho, there are over seventy qualified retailers in the Village at Meridian.

Mark noted that he mentioned the Village because the developer has thrown a new wrinkle into the mix in the last week or so. They are asking how to handle all the temporary sales events that occur in their complex on a regular basis, like farmers' markets, auto shows, or other special events. The statute does not clearly address this, and a group including Doreen Warren, Randy Tilley, Glenda Smith, and Mark are meeting to consider how best to respond properly to the developer and follow the statute. Discussion followed.

There were no more administrative reports.

Reports on Rules Committees.

[Income Tax, Administration & Enforcement, Kilowatt, Mine License Rules – Committee Chair, Cynthia Adrian.](#)

Cynthia Adrian, Income Tax, Administration & Enforcement, Kilowatt, and Mine License Rules Committee Chair, reported that there was a committee meeting that afternoon. The committee would review the legislation that passed this legislative session and into what the Multi-state Tax Commission (MTC) has done. There was only one rule that would be negotiated, Proposed Rule 580 – Amended Financial Formula. Commissioner Werk inquired who besides the banking industry would be included in the negotiations. Cynthia noted that there will be many stakeholders included and it could take two years to negotiate this rule.

There were no more questions.

[Motor and Special Fuels Tax Rules – Committee Chair, Don Williams.](#)

Don Williams, the Motor and Special Fuels Tax Rules Committee Chair, reported that the rules committee met on April 5, 2016, and discussed the 2015 Motor and Special Fuels Tax Rules approved by the 2016 Legislature. There was no legislation passed by the 2016 Legislature which required rules.

There is only one rule that will go through the negotiated rulemaking process, Proposed Rule 130 – Distributor's Fuel Tax Reports. The Notice of Intent will be published on May 4, 2016, and the negotiated rule meeting for Proposed Rule 130 is scheduled for May 10, 2016.

There were no questions.

[Sales & Use Tax Administrative Rules – Committee Chair, Doug Harrie.](#)

Randy Tilley, Audit Division Administrator, reported on behalf of Doug Harrie, Sales and Use Tax Administrative Rules Committee Chair, who was absent. Randy noted that there were some rules that need to be modified to conform to the changes in this year's legislation. A public rules committee meeting is scheduled on May 19, 2016.

There were no questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Rick Anderson, Property Tax Policy Specialist, in the absence of Alan Dornfest, Property Tax Rules Committee Chair, reported that the Property Tax Rules Committee met on March 29, 2016. The next rules committee meeting is scheduled for May 12, 2016, at 9 a.m.

Rick noted that the Property Tax Division currently has 12 rules open that have been or will be considered by the Property Tax Rules Committee. The first four have been open for some time and are not inspired by new legislation. These are Rule 6 – The adoption by reference rule; Rule 625 – Application process for the HOE (Homeowners Exemption) applicable to the occupancy tax; Rule 631 – Explains an exemption for the new plant and building facilities; Rule 809 – Housekeeping item correcting the date to deal with erroneous levies. The Proposed Administrative Rules Forms (PARFS) for these four rules have been submitted and approved by the Division of Financial Management (DFM).

The next seven open rules are a direct result of recently passed legislation. These rules are: Rule 114 – describes the manner in which the HOE is to be reported to the Commission (HB 431); Rule 317 – HB 431 sets the Maximum HOE at \$100,000 effective July 1, 2016. This rule affirms the maximum HOE for this year will remain at the previous set \$94,745 amount; however, the maximum amount applied to occupancies after July 1, 2016, will be \$100,000; Rule 609 – is being amended to delete reference to the House Price Index to adjust the Maximum HOE amount as deleted by HB 431.

Rule 802 – Explains New Construction and how to deal with the New Construction in UR-RAA when the Urban Renewal Agency Plan is modified as set in HB606. Rule 803 – the budget certification rule is being amended to explain the provisions of HB474 dealing with the notice requirements when the forgone amount is included in a taxing district's budget. Rule 804 – Urban Renewal Levy Certification Rule – is being expanded to explain the requirement of HB 606 to submit Urban Renewal (UR) plans to the Commission. Rule 805 – Penalty For Failure to Comply with Reporting Requirements – this is open to consider whether or not a penalty will be imposed on UR agencies that do not report plan changes to the Commission as set out in HB606.

PARFs have been submitted for these seven rules; however, they have not yet been approved by DFM. There is not a PARF yet for Rule 225 – which deals with the formation of taxing districts, and the committee will be exploring the definition of “shoestring” when used in connection with an annexation.

There are three temporary rules, Temporary Rule 317, Temporary Rule 609, and Temporary Rule 803, which will be brought before the Commission for adoption at the May or June open meeting. SB 1347 changes the distribution of excess tax deed sale funds from the county indigent fund to the state treasury.

Steve Fiscus, Property Tax Division Administrator added that the publication of the rules was expensive, and it would be good to have the fiscal note added for publishing changes in the legislation passed. Commissioner Werk requested Steve submit his request in an email so the commissioners can talk with DFM and the Governor's Office.

There were no questions.

There were no more rules committee reports.

Other Business.

There was no other business.

Public Comments.

Commissioner Werk asked if the guests in attendance had any comments.

There were no public comments.

Recess.

Commissioner Werk recessed the Public Session for five minutes to reconvene for the commissioners to meet with the Commission's legal counsel.

Reconvene Meeting.

Commissioner Werk reconvened the open meeting.

Executive Session.

Commissioner Jackson moved to go into the Executive Session with its legal counsel pursuant to Idaho Code § 74-206(1)(f) to discuss the current status of litigation to which the Commission is a party, in addition to discuss matters which are exempt pursuant to Idaho Code § 74-206(1)(b). Commissioner Katsilometes seconded. A roll call vote was taken by Valerie Dilley, Executive Administrative Assistant. Commissioners Katsilometes, Jackson, and Werk all voted in favor and the motion passed. Chairman Ken A. Roberts later joined the executive session.

The Commission met in executive session with its legal counsel pursuant to Idaho Code § 74-206(1)(f) to discuss the current status of litigation to which the Commission is a party, in addition to discuss matters which are exempt pursuant to Idaho Code § 74-206(1)(b). No matters requiring a vote of the Commission resulted from the executive session.

Public Session.

Commissioner Werk declared the Executive Session ended and returned to the public session.

There being no further business, the meeting adjourned.

Valerie J. Dilley
Secretary

Elliot S. Werk
Chair